

## HOUSE BILL NO. 380

INTRODUCED BY B. EGGERS

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE USE OF CREDIT HISTORY IN UNDERWRITING; ALLOWING THE USE OF AN INDIVIDUAL'S CREDIT HISTORY TO VARY THE RATES OF AN INDIVIDUAL'S AUTOMOBILE OR HOMEOWNER INSURANCE UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 33-18-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 33-18-210, MCA, is amended to read:

**"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances -- use of credit history -- rulemaking.** (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) An insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics

1 or between insureds because of race, color, creed, religion, or national origin.

2 (4) This section may not be construed as prohibiting the payment of commissions or other  
3 compensation to duly licensed insurance producers or as prohibiting an insurer from allowing or returning  
4 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or  
5 subscribers.

6 (5) An insurer may not make or permit unfair discrimination between individuals or risks of the  
7 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
8 limiting the amount of insurance coverage on a property or casualty risk because of the geographic location  
9 of the risk, unless:

10 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
11 unfair discrimination; or

12 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

13 (6) An insurer may not make or permit unfair discrimination between individuals or risks of the  
14 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
15 limiting the amount of insurance coverage on a residential property risk or on the personal property  
16 contained in the residential property, because of the age of the residential property, unless:

17 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
18 unfair discrimination; or

19 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

20 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of  
21 coverage available to an individual because of the sex or marital status of the individual. However, an  
22 insurer may take marital status into account for the purpose of defining persons eligible for dependents'  
23 benefits.

24 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a  
25 property or casualty policy or contract of insurance solely because the applicant or insured or any  
26 employee of either is mentally or physically impaired. However, this subsection does not apply to accident  
27 and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any  
28 other provision of law relating to the termination, modification, issuance, or renewal of any insurance  
29 policy or contract.

30 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit

1 the amount of coverage available to an individual based solely on adverse information contained in a  
2 driving record that is 3 years old or older. However, an insurer may provide discounts to an insured based  
3 on favorable aspects of an insured's claims history that is 3 years old or older.

4 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
5 because of a claim submitted under the insured's policy if the insured was not at fault.

6 (11) (a) For the purposes of this subsection (11), "credit history" means that portion of a credit  
7 report or background report that addresses the applicant's or insured's debt payment history or lack of  
8 history ~~but does not include public information including convictions, lawsuits, bankruptcies, or similar~~  
9 public information and includes any other factors that indicate how an applicant or insured uses credit, as  
10 well as credit scores or other numbers that are derived using any credit-related factors.

11 (b) An insurer writing automobile or homeowner insurance may not refuse to insure, refuse to  
12 continue to insure, ~~charge higher rates,~~ or limit the scope or amount of coverage or benefits available to  
13 an individual based ~~solely in any part~~ on the insurer's knowledge of the individual's credit history. ~~unless:~~

14 (c) An insurer may use an individual's credit history to vary the rates of the individual's automobile  
15 or homeowner insurance policy if the credit history is used in conjunction with other types of rating factors  
16 and if:

17 (i) the insurer possesses substantial documentation that credit history is significantly correlated  
18 with the types of risks insured or to be insured;

19 (ii) the insurer sends written communication to the individual disclosing that the individual's  
20 ~~insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits rate~~  
21 was varied because of credit information relating to the ~~applicant or the insured~~ individual; and

22 (iii) upon subsequent request of the individual, mailed within 10 days of receipt of the ~~denial,~~  
23 ~~nonrenewal, or limitation~~ notice of rate variance, the insurer provides the individual with a copy of the  
24 credit report at issue or the name and address of a third party from whom the individual may obtain a copy  
25 of the credit report, within 10 days of receipt of the request.

26 (d) The insurer shall provide supporting data for the use of an individual's credit history to vary  
27 rates as provided for in 33-16-203.

28 (e) The commissioner may adopt rules to carry out the provisions of this subsection (11).

29 ~~(e)(f)~~ The provisions of this subsection (11) are not intended to conflict with any disclosure  
30 provisions of state law or the federal Truth in Lending Act applicable to lending institutions, credit bureaus,

1 or other credit service organizations that maintain or distribute credit histories on insurance applicants or  
2 policyholders."

3 - END -